

Message Text

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ACTION NEA-16

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FM AMEMBASSY JIDDA

TO SECSTATE WASHDC 8862

SECDEF

INFO CINCEUR

AMCONSUL DHAHRAN

USMTM DHAHRAN

C O N F I D E N T I A L JIDDA 5807

E.O. 11652: GDS

TAGS: MASS, MARR, SA, US

SUBJECT: LEGAL STATUS OF PERSONNEL ASSIGNED TO USMTM

SUMMARY: A RELATIVELY MINOR TRAFFIC ACCIDENT HAS HIGHLIGHTED
NEED FOR REVISING 1953 USMTM AGREEMENT AS IT RELATES TO THE
LEGAL STATUS OF U.S. PERSONNEL. BELIEVE THIS PROBLEM SHOULD
BE ADDRESSED IN CONNECTION WITH PUTTING USMTM ON FMS SALES
CASE BASIS. END SUMMARY.

1. IN FEBRUARY OF THIS YEAR A SERGEANT ATTACHED TO THE
USMTM DETACHMENT IN JIDDA WAS INVOLVED IN A MINOR TRAFFIC
ACCIDENT WITH A TAXI DRIVEN BY A SAUDI CITIZEN. CHUSMTM HAS
HAD EXTENSIVE CORRESPONDENCE ON THIS SUBJECT WITH EUCOM JAG,
AND WE WILL NOT THEREFORE GO INTO DETAIL HERE. GIST OF
MATTER IS THAT POLICE DETERMINED BOTH DRIVERS TO BE EQUALLY
AT FAULT AND BOTH PAID DAMAGES OF SR 50. LATER POLICE
ASSESSED AN UNEXPLAINED PUNITIVE FINE OF SR 270 AGAINST
THE USMTM DRIVER. CHUSMTM PROTESTED THIS DECISION TO
JIDDA AREA COMMANDER WHO REPLIED THAT PROVISION OF 1953
AGREEMENT REGARDING LEGAL JURISDICTION DID NOT APPLY IN
THIS CASE SINCE THE MILITARY CAMP AT DHAHRAN AIRPORT TO
WHICH THE AGREEMENT APPLIED HAD SUBSEQUENTLY BEEN ABOLISHED.
THE JIDDA AREA COMMANDER ORDERED THAT THE FINE BE PAID.

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2. THE INDIVIDUAL CONCERNED HAS LEFT THE COUNTRY. THE FINE HAS NOT REPEAT NOT BEEN PAID. CHUSMTM REPORTS CONTINUING PRESSURE FROM AREA COMMANDER TO PAY. WE HAVE DECIDED TO DO NOTHING AND HOPE MATTER WILL PASS. IF PRESSURE BUILDS UP AND BECOMES A FACTOR IN, FOR INSTANCE, SAUDI DECISION WHETHER TO RELEASE OR DETAIL ANOTHER USMTM PERSON WHO HAD BECOME INVOLVED IN AN AUTO ACCIDENT, WE WOULD PAY THE FINE UNDER PROTEST REGISTERING OUR DISAGREEMENT IN A NOTE TO THE FOREIGN MINISTRY, IN ORDER THAT PRECEDENT NOT BE SET. REQUEST DEPT/DOD COMMENTS ON THIS POINT.

3. REGARDLESS OF WHETHER THIS CASE BLOWS OVER, IT HAS SERVED TO HIGHLIGHT THE UNDERTAINTY SURROUNDING STATUS OF USMTM PERSONNEL IN SAUDI ARABIA--A CONDITION WHICH WE CONSIDER TO BE UNSATISFACTORY. CHUSMTM AND EUCOM JAG HAVE DEVELOPED A LEGAL ARGUMENT TO THE EFFECT THAT THE INTERPRETATION PUT FORWARD BY JIDDA AREA COMMANDER IS INCORRECT AND THAT CORRECT INTERPRETATION OF 1953 AGREEMENT WOULD GIVE THE USG JURISDICTION OVER THIS CASE. (AT THE TIME OF THE AGREEMENT USMTM PERSONNEL WERE LOCATED ONLY AT DHAHRAN. THEY ARE NOW SPREAD AT VARIOUS LOCATIONS THROUGHOUT THE COUNTRY.)

4. WE COULD PRESENT THIS LEGAL ARGUMENT TO MODA PRINCE SULTAN OR DEPUTY MODA PRINCE TURKI. HOWEVER, WE DO NOT THINK THAT THIS WOULD BE THE BEST COURSE OF ACTION. A DECISION BY EITHER OF THEM WOULD MOST LIKELY BE MADE ON POLITICAL GROUNDS, I.E. WHETHER AT THAT PARTICULAR TIME HE CONSIDERED IT MORE IMPORTANT TO BACK UP HIS AREA COMMANDER OR GIVE A FAVORABLE RESPONSE TO A USG REQUEST. IF MADE IN OUR FAVOR IT WOULD PROBABLY APPLY ONLY TO THE PRESENT CASE. IT WOULD NOT BE LIKELY TO ELIMINATE THE AMBIGUITY OF THE 1953 AGREEMENT AS REGARDS THE STATUS OF USMTM PERSONNEL OR BE BINDING ON JUDICIAL AUTHORITIES IN FUTURE CASES.

5. WE BELIEVE THAT WE SHOULD RAISE WITH THE SAG (PRINCE SULTAN) AND SEEK TO REGULARIZE THE LEGAL STATUS OF USMTM PERSONNEL. MOST SATISFACTORY FROM OUR STAND-POINT WOULD BE THE EXTENSION OF THE FAR MORE FAVORABLE

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1965 CORPS OF ENGINEERS AGREEMENT TO COVER USMTM PERSONNEL. SINCE IT IS AN AGREEMENT IN FORCE, IT MIGHT BE POSSIBLE TO GET THE SAUDIS TO ACCEPT THIS. IN VIEW OF THE SUPREME COURT DECISION BARRING THE ARMED FORCES FROM EXERCISING JURISDICTION IN CRIMINAL CASES INVOLVING DEPENDENTS, WE SUPPOSE THIS WOULD PRESENT DIFFICULTIES FOR US, EVEN SHOULD THE SAUDIS AGREE. (WE DO NOT WISH OTHERWISE TO RAISE THE QUESTION OF THE CORPS AGREEMENT WITH THE SAG).

6. ANOTHER WAY OUT OF PRESENT UNSATISFACTORY SITUATION WOULD BE FOR THE DEPARTMENT AND DOD TO PREPARE US WITH A DRAFT CONTAINING ENTIRELY NEW LANGUAGE REGARDING THE LEGAL STATUS OF USMTM PERSONNEL IN SAUDI ARABIA. THIS WOULD SUPERSEDE THOSE PORTIONS OF THE 1953 AGREEMENT DEALING WITH LEGAL JURISDICTION. THIS DRAFT COULD BE PRESENTED TO THE SAG AT THE SAME TIME WE PRESENT THEM WITH THE LETTER OF OFFER FOR THE SALES CASE PUTTING USMTM FINANCING ON AN FMS BASIS.

7. WE RECOMMEND THAT THE DRAFT NOT BE A NEGOTIATING DOCUMENT BUT BE BASED ON A REALISTIC ASSESSMENT OF WHAT WE CAN LIVE WITH. IT SHOULD BE ALONG THE LINES OF RECENTLY CONCLUDED AGREEMENTS WITH OTHER FRIENDLY COUNTRIES--NOT EARLY NATO STATUS OF FORCES AGREEMENTS. WE WOULD GET MORE BY STARTING FROM A MODEST AND REALISTIC DRAFT WHICH THE SAUDIS MIGHT ACCEPT WITHOUT NEGOTIATION THAN WE WOULD BY STARTING WITH A VERY FAVORABLE DRAFT WHICH THE SAUDIS WOULD FEEL THEMSELVES OBLIGED TO CHIP AWAY AT IN NEGOTIATIONS. DO WE PRESENTLY HAVE A SATISFACTORY WRITTEN AGREEMENT (AS OPPOSED TO UNDERSTANDING) WITH THE IRANIAN GOVERNMENT? IF SO AND THE AGREEMENT APPEARS TO FIT SAUDI CIRCUMSTANCES, WE MIGHT BE ABLE TO GET THE SAUDIS TO ACCEPT IT ALSO. (WHEN IT COMES TO EQUIPMENT AND TRAINING THE SAUDIS EXPECT US TO RESPOND AS POSITIVELY TO THEM AS WE DO TO THE IRANIANS. CONVERSELY, THEY WOULD PROBABLY NOT THINK IT UNREASONABLE TO GIVE AS MUCH AS THE IRANIANS DO.)

8. WHILE IT WOULD BE PREFERABLE TO PRESENT A DRAFT OF A PROPOSED NEW AGREEMENT ALONG WITH THE USMTM FMS CASE, THE CONFIDENTIAL

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TWO ARE NOT NECESSARILY LINKED AND TIMING IS NOT CRUCIAL. IT WOULD BE NICE IF WE COULD BENEFIT FROM THE PSYCHOLOGICAL MOMENTUM AT THAT MOMENT. AT THE TIME OF PRESENTING THE FMS CASE, WE HOPE WE WOULD AT LEAST BE IN A POSITION TO TELL THE SAG THAT WE FIND THE 1953 AGREEMENT UNSATISFACTORY AS REGARDS THE STATUS OF U.S. PERSONNEL AND THAT WE INTEND TO PRESENT A NEW DRAFT AGREEMENT.

9. WE HAVE DISCUSSED THIS PROBLEM AT SOME LENGTH WITH CHUSMTM, GENERAL HILL. HE HAS NOT SEEN THIS TELEGRAM BUT HAS CONCURRED IN THE SUBSTANCE OF IT. RECOMMEND THAT THIS QUESTION BE DISCUSSED WITH GEN. HILL DURING HIS CONSULTATIONS AT EUCOM AND IN WASHINGTON.
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